

making the request has exhausted all reasonable efforts to reach agreement on such issue in collective bargaining.

#### IV. TERMINATION OF THE STATUTORY STATUS QUO PERIOD

The parties are free to take such action as they may determine to be in their own interests whenever all issues in the dispute have either been resolved through collective bargaining or have been made the subject of the Work Rules Disputes Board's decision and recommendation.

#### V. PARTIAL OPERATION OF THE RAIL SYSTEM IN THE EVENT OF A STRIKE

A. If the carrier should reject the recommendations of the Board and should put into effect work rules of a different nature, the unions may strike. In this event, the President is authorized to seize such part of the railroad system as may be necessary to maintain essential services in the public interest. The facilities which have not been seized will remain subject to the strike.

B. If the carrier should put into effect the recommendations of the Board, the unions may strike in protest thereof. In this event, the President is authorized to enjoin that part of the strike which interferes with the maintenance of essential rail transport.

C. In determining what part of the rail system must be maintained in order to provide essential services, the President must give due consideration to the availability of other means of transport for the shipment of essential commodities.

#### VI. COMPENSATION IN THE EVENT OF SEIZURE

In the case of seizure the bill provides that just compensation shall be made for the operation of the railroads, giving due consideration to the fact that the United States took possession of the rail system when its operations had been interrupted by a strike.

#### VII. STRIKE RISKS

The bill provides that the Work Rules Disputes Board, in its recommendations, may provide that employees who strike in protest of the recommendation may be denied any part of the job protection provisions contained in its decision.

Mr. MORSE. Mr. President, I close with this final statement about what I believe is really involved in the crisis that has been created by this case. We in this country must make up our minds whether we shall preserve economic freedom by preserving the precious right to bargain collectively; the precious right on the part of management to resort to economic force by way of a lockout, if it wants to follow that course of action; the precious right of workers to band together and refuse to offer their services in concert and engage in a strike.

Many persons like to dismiss these abstract rights. But I would have Congress and the people of the country reflect on the kind of country we would have if those rights were lost to free employers and to free workers.

It may be said, "Oh, you are whistling while walking by a graveyard. There is no danger of that. Stop deluding yourself."

But there are people in other countries and in other civilizations who took the same position, the position that they could not lose their freedom. But it happened.

There are many ugly dangers in this country today that are attacking our freedoms from many angles. There are in this country extremists who want to invest in the police of the country, in-

cluding the police of the District of Columbia, police-state powers that would destroy the basic rights of freedom. They want to take away the protection of the Supreme Court in such fact situations as the Mallory case. Another group of extremists seeks to vest more and more unchecked power in the American military.

I have heard it said—and I repeat today, and it is apropos the subject matter of the protection of freedom which is so basically involved in this proposed legislation—"Be on guard, for it can happen in the United States that a military power can become so strong that free institutions and constitutional procedures become endangered."

Mr. President, those of us who have been battling on the floor of the Senate for the past few years against the unchecked power of the CIA are really fighting to preserve for the people the precious principle of our system of checks and balances, for in a democracy there is no room for unchecked power by any agency of government or any group within our citizenry.

Some may ask, "What does this have to do with this joint resolution?" The answer is, "Everything"—as Senators will realize if they reflect upon the major premise of my argument. I am arguing against the unchecked exercise of compulsory power on economic freedom. If the wall of protection which Americans have enjoyed all these years in the field of management-labor relations is broken through by a compulsory-arbitration hammer drive such as this joint resolution can, in my judgment, properly be said to constitute, we shall start to tear down the wall of economic freedom for management and labor which has been built up to protect them from the exercise of arbitrary power by the Government—in this instance, by a compulsory arbitration board representing the Government.

Mr. President, the preservation of these abstract principles of government will determine whether Americans remain free. When we read history, we find that the first step taken by police states is destruction of the economic freedom of the workers and managers; and usually they do it with unchecked military power.

So, Mr. President, as a constitutional liberal, I offer this amendment to the committee amendment. I know it has been argued that this is a rather complex amendment. Of course it is. But freedom is complex, too; and freedom is worth whatever price we have to pay to protect it. I will not vote today for such a precedent, even though an attempt is made to limit it to this case, for it cannot be limited to this case. Although Senator after Senator has gone through the verbal form of trying to assure himself that the proposal now confronting us will not establish a precedent, no Senator can assure himself or anyone else that it will not establish a precedent. Of course it will establish a precedent, Mr. President—and an exceedingly dangerous one. Who knows where it will lead? It should not be established, because it never should be followed. But precedents are followed; that is one of the ugly things about bad precedents.

So I conclude my remarks, Mr. President, by saying that I care not whether I am the only Senator who will vote against this joint resolution or whether I am the only one who will vote for this amendment to the committee amendment. I will stand on the record I am making today for future reference in support of the preservation of economic freedom for management and labor, and in opposition to a precedent of compulsory arbitration set by this very unwise and shocking joint resolution.

Mr. LAUSCHE. Mr. President, I recognize the absolute sincerity of the Senator from Oregon, and I would subscribe to the argument he made if I were able to forget and disregard what has happened in this dispute since November 1, 1960.

The amendment submitted by the Senator from Oregon to the committee amendment contemplates mediation by a Presidential board of seven members, but with no power to render any ultimate judgment, which would bring the dispute to an end. The only difference between what has been proposed by the Senator from Oregon and the various avenues which have been traveled in attempting to settle this dispute is to be found in the inclusion in his amendment of a provision which would give the President of the United States a right to seize the railroads in the event no ultimate agreement or settlement was reached.

I have mentioned the history of the dispute. I wish to enumerate what has been done, by way of mediation, recommendation, conciliation, and other attempted means to bring these parties to a settlement.

On November 1, 1960, President Eisenhower appointed what was known as the Presidential Railroad Commission. It was composed of 15 members—5 from labor, 5 from management, and 5 from the general public. The Commission was instructed to make a study and, as a consequence of the study, to submit recommendations for settlement of the dispute. It had no authority to arbitrate. All it could do was make recommendations.

It is very interesting to consider the various subjects which were assigned to that 15-member group.

Subject No. 1 dealt with the manning of railroad cars and trains. The Commission made its study, covering 96 days and countless pages of testimony. The public members personally observed what was being done in the railroad systems.

On the subject of manpower in the railroad industry, the Presidential Commission made its recommendations.

The second subject which it was to investigate was the use of firemen helpers. The Commission made its study, and made its recommendations.

The next study was of the training of engine-service employees. Specific recommendations on that subject were made.

Then came the study of the consist of crews and of what personnel a train crew should consist of. Under that consist of